

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8302 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHARATBHAI AMBALAL PATEL

Versus

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

Appearance:

MR MM JADEJA for Petitioner

MR DU SHAH for Respondent No. 1

CORAM : MR.JUSTICE R.BALIA.

Date of decision: 26/03/96

ORAL JUDGEMENT

Heard the learned advocates for the parties.

This petition has arisen on the following circumstances: About 50 acres of agricultural land of the petitioner situated at village Bhadkoda, Taluka Ankleshwar, was acquired by the Government of Gujarat. By circular dated 6th July 1992, the Gujarat Industrial

Development Corporation ('GIDC' for short), an instrumentality of 'State'), offered to make available 22 to 25% of the land available with it for allotment to land losers in various parts of the State in accordance with the terms and conditions, at which the land could be allotted to other persons of the GIDC. The petitioner made an application in the first instance for allotment of 4000 sq.mtrs of land for agricultural purpose. That application having not been granted, the petitioner approached this Court by way of Special Civil Application No. 6186 of 1993, which was rejected. Against the order of the learned Single Judge, the petitioner preferred Letters Patent Appeal No.395 of 1993, which came to be disposed off by this Court on 6th October 1993. While upholding rejection of Special Civil Application, the Division Bench of this Court has clarified the position that as per the policy decision of the GIDC, plot could be allotted whether for commercial, industrial or residential purposes, but not for cultivation purpose, for which the petitioner has demanded land. In view of this clarification, it was further clarified that the petitioner being a land-loser can still apply for allotment of plot either for commercial, industrial or residential purposes and directed that if such application is made by the petitioner within two weeks from the date of the order, the GIDC shall consider and decide the application on its merit within one month thereafter. The petitioner made application on 25th October 1993 detailing number of open plots available with the GIDC and indicating first preference to plot No.95 in the housing zone. In pursuance of this application of the petitioner dated 25th October 1993, after inviting the petitioner to complete the formalities through correspondence which are not relevant for the purpose of the present petition, by the impugned communication dated 12th January 1995, the petitioner was informed that as per the policy of the GIDC, he can be allotted 300 sq.mtrs of land out of available commercial/residential plots and was further informed that necessary actions are being taken for subdivision of the appropriate plot for allotment to him.

Contention of the petitioner is that he has acquired right to be allotted land on priority in terms of the circular dated 6th October 1972 and that right cannot be altered by subsequent amendment in the policy of the GIDC. It was urged that, in pursuance of the application made to secure benefit of circular dated 6th October 1972, persons have been allotted land to the extent applied for. As a measure of illustration, copy of allotment of Aswinkumar K.Shah dated 11th March 1993

is also placed on record.

Contesting the contention of the petitioner, the learned advocate for the GIDC has urged that no vested right accrued in favour of any of the land-losers. The land was to be allotted not in lieu of or as adjustment against compensation payable to the land-losers, but, as a matter of grace, the GIDC has come forward to keep certain land reserved for being allotted to the land-losers, whose lands have been acquired by the State, by keeping their applications apart from general applications. It was pointed out by the learned advocate for the Corporation that, in its resolution dated 25th September 1993, the Board of the GIDC has laid down the policy of not allotting more than 300 sq.mtrs of land to any applicant.

Having considered the rival contentions, in my opinion, this petition must fail.

Firstly, circular dated 6th October 1972 does not confer any right to anyone being a land loser to acquire and specify the measurement of land. This was not as a measure of adjusting compensation payable for the acquisition of the land but it is purely a measure of grace by the Corporation to assuage the feelings of the persons on account of compulsory acquisition by treating such landlosers a class by themselves for the purpose of allotment and their applications are not to be considered along with general applications. However, it was made clear in the circular itself that the land is to be allotted subject to the prevailing policy and terms and conditions for such allotment fixed by the GIDC. It would obviously mean that the land has to be allotted to the applicant as per the prevalent policy as to measurement, price and place. Therefore, it cannot be said that by this circular any assurance was given to the petitioner or his like to alter their position to their disadvantage so as to confer upon them any enforceable right under the circular.

It is also pertinent to note that the policy for allotment of land is a matter to be decided by the Board of the GIDC and it is entitled to frame its policy and modify it from time to time, as per the requirement and contingency demanded of the times. Nobody has vested right on the basis of any circular or policy to make a claim by ignoring the prevalent policy which governs the field of allotment of land for the time being. All applications which are to be decided after commencement of a particular policy has to be treated alike and it is

not the case of the petitioner that after the policy under which the allotment has been offered to him, any person has been treated differently than the petitioner in the matter of allotment of land. As has been noticed from the facts, the instance referred to by the petitioner is of a period prior to framing of the new policy, which took place on 25th September 1993. The petitioner's application for allotment of residential plot has been made on 25th October 1993, that is to say, after the new policy has come into force. His application was only liable to be considered in accordance with the policy prevalent at that time. For this reason also, no case for discriminatory treatment by the GIDC in the matter of allotment of land as per its policy is made out.

Petition is, therefore, dismissed. Notice is discharged. There shall be no order as to costs.

(swamy)